

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2271 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHUPENDRA N NAIK

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner

Ms. Harsha Devani, AGP for Respondent No. 1

MR DS NANAVATI for Respondent No. 3

MR JJ YAJNIK for Respondent No. 4

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/08/98

ORAL JUDGEMENT

Heard the learned Advocates for the parties.
This Court, by order dated 30.7.96, in Special Civil Application No.1372/83 and 4864/82, quashed and set aside the order dated 8.3.1978 and held that the petitioner is entitled to all consequential benefits which followed

from the quashing of the order i.e. for the protection of their pay which they were drawing as teachers of the College on their absorption as teachers in the School. The grievance of the petitioner is that the said order has not been complied with. An affidavit has been filed by Mr I M Patel, District Education Inspector, Ahmedabad City Service. He has taken the stand that the petitioner never accepted the position as surplus teacher as he has accepted the appointment as Teacher in Smt.N.P.Thakkar High School. It is not in dispute that the said plea was not raised in the earlier Special Civil Applications and the Court proceeded on the footing that the petitioners are surplus teachers. Mr J J Yagnik, learned Advocate appearing for the respondent No.4 states that the Government intends to prefer Appeal against the order of the learned Single Judge of this Court dated 30.7.96. It is strange that this fact is not coming from the mouth of the Asstt. Government Pleader but from the respondent No.4. In any case, the order has been passed two years back by the learned Single Judge, and there is no reason not to comply with the direction of the Court.

2. In view of the above, this Special Civil Application is allowed and the respondent No.4 is directed to prepare and submit to the D.E.O. the bills of the petitioner within a period of two weeks from today. If such bills are presented, the D.E.O.-respondent No.5, shall take a decision thereon as per the orders of this Court dated 30.7.96 within a period of two weeks thereafter. A serious view shall be taken of non-compliance of this order. Respondent No.2 will comply with the order and report to this Court on 25.8.1998 so as respondent No.5 will also act accordingly on receipt of the bill and report compliance of the same to this Court on 11.9.1998.

Rule made absolute to the aforesaid extent. S.O. to 25.8.1998 for the purpose of reporting compliance.

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msp.